

IN THE UNITED STATE PATENT AND TRADEMARK OFFICE

In Re Application of:

DUGAN et al

Serial No. 09/421,590

Filed: October 20, 1999

Art Unit: 2756

Examiner: Not Assigned

Attorney Docket: COS-98-021

#3

**FOR: METHOD AND SYSTEM FOR DEPLOYING SERVICE MODULES AMONG
SERVICE NODES IN AN INTELLIGENT NETWORK**

PETITION FOR FILING BY OTHER THAN ALL INVENTORS
UNDER 37 C.F.R. §1.47(a) AND M.P.E.P. §409.03(a)

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I. Statement of Precise Relief Requested

The Applicant requests that the Commissioner not abandon the above-cited application for failure to file an inventor's declaration by all the inventors and accepts this application as a filing by other than all of the inventors.

II. Background of this Petition

1. Ajay Deo, Andrew Dugan, Allen Holmes, Kelvin Porter, and Terence Robb are joint inventors of the above identified patent application. (§2, Affidavit of Albert M. Crowder.) The subject matter of the patent application was assigned to the assignee by Ajay Deo, Andrew Dugan, Kelvin Porter, and Terence Robb per the attached Assignment. (§5, Affidavit of Albert M. Crowder and Exhibit A). No Assignment or Declaration has been received from Allen Holmes since, as hereinafter discussed, he refuses to join in the application.

2. I am a Patent Attorney responsible for preparing and filing the patent application, Declarations and Assignments related to the above-identified patent application. (§1, Affidavit of Albert M. Crowder.) In September, 1999, Declaration and Assignment papers were mailed to Mr. Holmes as well as the other joint inventors for signing. Mr. Holmes informed MCI WorldCom that he refused to join in the application. In the hopes that he had had a change in his position, I mailed a reminder letter, including copies of the Declaration and Assignment papers via overnight delivery service his to his current address at 5375 Chambrey Court, Colorado Springs, Colorado 80919, in February 2000. Mr. Holmes has declined to reply (§4, Affidavit of Albert M. Crowder).

3. The last known and supposed current address for Mr. Holmes is: 5375 Chambrey Court, Colorado Springs, Colorado 80919, in February 2000. (§4, Affidavit of Albert M. Crowder).

III. Discussion of Applicable Law

1. 37 C.F.R. §1.47(a) and M.P.E.P. §409.03(a) set out the applicable laws regarding the filing of a patent application by other than all the inventors. In particular, these sections address the situation when one joint inventor refuses to execute a Declaration. Under the sections:



...all available joint inventors [are required] to file an application "on behalf of" themselves and on behalf of a joint inventor...who refuses to "join in an application."

...an application deposited in the Patent and Trademark Office pursuant to 37 C.F.R. 1.47(a) must meet the following requirements:

- (1) All the available joint inventors must
 - (i) make oath or declaration on their own behalf...and
 - (ii) make oath or declaration on behalf of the non-signing joint inventor as required by 37 C.F.R. 1.64. >An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s)...<
- (2) The application must be accompanied by proof that the non-signing inventor...
 - (ii) refuses to execute the application papers...
- (3) the last known address of the non-signing joint inventor must be stated...(M.P.E.P. §409.03(a))

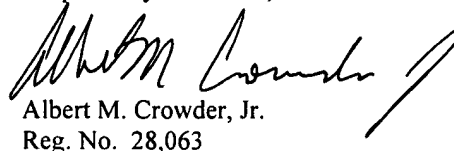
2. As set out above, the requirements of the applicable law have been met. Attached herewith are: an executed oath and Declaration by all the available joint inventors with the signature block of Mr. Holmes left blank; and the affidavit of Albert M. Crowder stating that Mr. Holmes refuses to execute the application papers. Finally, the last known address of Mr. Holmes is stated above (¶3, Background of this Petition).

IV. Summary

For the foregoing reasons, it is submitted and respectfully requested that this petition for Filing by Other Than All the Inventors should be granted.

A duplicate copy of this Petition is enclosed.

Respectfully submitted,


Albert M. Crowder, Jr.
Reg. No. 28,063

2-11-00

MCI WorldCom, Inc.
1133 19th Street NW
Washington, D.C. 20036
(719) 535-3275

MAILING CERTIFICATE UNDER 37 C.F.R. §1.8(a)d

I hereby certify that the above correspondence is being deposited with the U.S. Postal Service as First Class

Mail in an envelope addressed to:

Assistant Commissioner for Patents,

Washington, D.C. 20231 on 2-14-00

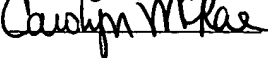


EXHIBIT A-1

Patent Packet No.: COS-98-021

ASSIGNMENT

For good and valuable consideration, the receipt of which is hereby acknowledged, I/We, the undersigned, do hereby sell, assign, and transfer to: MCI WORLDCOM, Inc., a corporation of Georgia, having offices at 515 East Amite Street, Jackson, MS 39201, ("Assignee"), its successors, assigns and legal representatives, the entire right, title and interest for the United States and all foreign countries, in and to any and all improvements which are described in the application for United States Letters Patents,

- ☐ Which has been executed by the undersigned concurrently herewith,
- ☒ Which was filed on 10/20/99 and assigned Serial No. 09/421,590

and is entitled:

Method and Apparatus for Deploying Service Modules Among Service Nodes Distributed in an Intelligent Network

and in to said application and all divisional, continuing, substitute, renewal, reissue, and all other application for Letters Patents which have been or shall be filed in the United States and all foreign countries on any of said improvements; and in and to all original and reissued patents which have been or shall be issued in the United States and foreign countries on said improvements, and in and to all rights of priority resulting from the filing of said United States application; and

Agree that said Assignee may apply for and receive Letters Patent for improvements in its own name; and that, when requested, without charge to, but at the expense of, said Assignee, its successors, assigns and legal representatives, to carry out in good faith the intent and purpose of this Assignment, the undersigned will execute all divisional, continuing, substitute, renewal, reissue, and all other patent application on any and all said improvements; execute all rightful oaths, assignments, powers of attorney and other papers; communicate to said Assignee, its successors, assigns, and representatives, all facts known to undersigned relating to said improvements and the history thereof; and generally do everything possible which said Assignee, its successors, assigns or representatives shall consider desirable for aiding in securing and maintaining proper patent protection for said improvements and for vesting title to said improvements; and all applications for patents and all patents on said improvements, in said Assignee, its successors, assigns and legal representatives; and

Covenant with said Assignee, its successors, assigns and legal representatives that no assignment, grant, mortgage, license, or other agreement affecting the rights and property herein conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

Signature: X *Ajay P. Den* Date: 2/4/2000
Ajay P. Den

Signature: _____ Date: _____
Andrew Dugan

Signature: _____ Date: _____
Allen Holmes

ASSIGNMENT

For good and valuable consideration, the receipt of which is hereby acknowledged, I/We, the undersigned, do hereby sell, assign, and transfer to: MCI WORLDCOM, Inc., a corporation of Georgia, having offices at 515 East Amite Street, Jackson, MS 39201, ("Assignee"), its successors, assigns and legal representatives, the entire right, title and interest for the United States and all foreign countries, in and to any and all improvements which are described in the application for United States Letters Patents,

- ☐ Which has been executed by the undersigned concurrently herewith,
☒ Which was filed on 10/20/99 and assigned Serial No. 09/421,590

and is entitled:

**Method and Apparatus for Deploying Service Modules Among Service Nodes
Distributed in an Intelligent Network**

and in to said application and all divisional, continuing, substitute, renewal, reissue, and all other application for Letters Patents which have been or shall be filed in the United States and all foreign countries on any of said improvements; and in and to all original and reissued patents which have been or shall be issued in the United States and foreign countries on said improvements, and in and to all rights of priority resulting from the filing of said United States application; and

Agree that said Assignee may apply for and receive Letters Patent for improvements in its own name; and that, when requested, without charge to, but at the expense of, said Assignee, its successors, assigns and legal representatives, to carry out in good faith the intent and purpose of this Assignment, the undersigned will execute all divisional, continuing, substitute, renewal, reissue, and all other patent application on any and all said improvements; execute all rightful oaths, assignments, powers of attorney and other papers; communicate to said Assignee, its successors, assigns, and representatives, all facts known to undersigned relating to said improvements and the history thereof; and generally do everything possible which said Assignee, its successors, assigns or representatives shall consider desirable for aiding in securing and maintaining proper patent protection for said improvements and for vesting title to said improvements and all applications for patents and all patents on said improvements, in said Assignee, its successors, assigns and legal representatives; and

Covenant with said Assignee, its successors, assigns and legal representatives that no assignment, grant, mortgage, license, or other agreement affecting the rights and property herein conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

Signature: _____ Date: _____
Ajay P. Deo

Signature: _____ Date: 2/4/00
Andrew Dugan

Signature: _____ Date: _____
Allen Holmes

Signature:

cc: Kevin R. Porter

Date:

Date: February 3, 2000

Signature:

Trence A. Robb

Date:

Date: 2/2/00

Signature:_____

Date: _____